

THE 1st CIRCUIT COURT OF APPEALS OF
MASSACHUSETTS

Civil Action No. 04 - 10580 - MEL

GREGORY C. MILTON
Petitioner, Pro'Se

v.

METRO BOSTON INPATIENT UNITS OF
THE LEMUEL SHATTUCK HOSPITAL,
Respondent .

FILED
JUN 29 11:01
DISTRICT COURT
OF MASS.

MOTION FOR APPEAL OF JUDGEMENT

(1.) ORDERED, The petition for writ of habeas corpus under section 2254 was dismissed at Boston Massachusetts, this 17th day of March , 2004 by MORRIS E. LASKER UNITED STATES SENIOR DISTRICT JUDGE. Plaintiff (Milton) wishes to appeal the decision to the 1st circuit court of appeals. (" My name is Gregory C. Milton. I am a patient on a MBMHU psychiatric ward run by Bay Cove .I have been committed to unit 9 north for approximately 1 year now and it is a locked down unit. I cannot go and come as I please, each time I leave the unit I must have special permission and I have to sign a log book stating the time of departure and the time of return. If I come back late from my allotted time thats a penalty for me, and then I will be restricted to the ward until further notice. I cannot go and come as I please. and I can't stay out past 9:00 pm unless I have a Pass and special permission from my Doctor. I am still a prisoner in this D.M.H. facility. My position is that I am still in state custody but not behind bars. Please see W. Roxbury District Court Docket No: 0306MH0150...In my honest opinion I feel that Judge Morris E. Lasker erred when he denied my petition for a writ of habeas corpus pursuant to 28 U.S.C.A. Section 2254.") See Heck v. Humphrey (Cite as: 512 U.S. 477, 114 S.Ct. 2364) Preiser v. Rodriguez, 411 U.S. 475, 93 S.Ct. 1827, 36 L.Ed.2d 439 (1973) See Wolff v. McDonnell, 418 U.S. 539

AO 241 (Rev. 5/85)

PETITION UNDER 28 USC § 2254 FOR WRIT OF
HABEAS CORPUS BY A PERSON IN STATE CUSTODY

United States District Court		District
Name <u>Gregory Milton</u>	Prisoner No.	Case No.
Place of Confinement <u>Metro Boston Inpatient Units of the Lemuel Shattuck Hospital</u> DKT. No. <u>0306MH0150</u>		
Name of Petitioner (include name under which convicted) <u>Gregory C. Milton</u>		Name of Respondent (authorized person having custody of petitioner) <u>Metro Boston Inpatient Units of the Lemuel Shattuck Hospital</u>
The Attorney General of the State of: <u>Massachusetts</u>		

PETITION

- Name and location of court which entered the judgment of conviction under attack Boxbury District Court
 - Date of judgment of conviction On or about May 15, 1988
 - Length of sentence No sentence - paid 75\$ fine
 - Nature of offense involved (all counts) Drinking in public
5. What was your plea? (Check one)
- (a) Not guilty ☐
- (b) Guilty ☒
- (c) Nolo contendere ☐
- If you entered a guilty plea to one count or indictment, and a not guilty plea to another count or indictment, give details:
6. If you pleaded not guilty, what kind of trial did you have? (Check one)
- (a) Jury ☐
- (b) Judge only ☐
7. Did you testify at the trial?
Yes ☐ No ☐
8. Did you appeal from the judgment of conviction?
Yes ☐ No ☒

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9. If you did appeal, answer the following:

(a) Name of court _____

(b) Result _____

(c) Date of result and citation, if known _____

(d) Grounds raised _____

(e) If you sought further review of the decision on appeal by a higher state court, please answer the following:

(1) Name of court _____

(2) Result _____

(3) Date of result and citation, if known _____

(4) Grounds raised _____

(f) If you filed a petition for certiorari in the United States Supreme Court, please answer the following with respect to each direct appeal:

(1) Name of court _____

(2) Result _____

(3) Date of result and citation, if known _____

(4) Grounds raised _____

10. Other than a direct appeal from the judgment of conviction and sentence, have you previously filed any petitions, applications, or motions with respect to this judgment in any court, state or federal?

Yes ☒ No ☐

11. If your answer to 10 was "yes," give the following information:

(a) (1) Name of court United States District Court in Massachusetts(2) Nature of proceeding Civil Action(3) Grounds raised destruction of evidence, violation of the 4th and 14th Amendments

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(4) Did you receive an evidentiary hearing on your petition, application or motion?
 Yes ☐ No ☒

(5) Result dismissal

(6) Date of result 1998

(b) As to any second petition, application or motion give the same information:

(1) Name of court _____

(2) Nature of proceeding _____

(3) Grounds raised _____

(4) Did you receive an evidentiary hearing on your petition, application or motion?
 Yes ☐ No ☐

(5) Result _____

(6) Date of result _____

(c) Did you appeal to the highest state court having jurisdiction the result of action taken on any petition, application or motion?

(1) First petition, etc. Yes ☐ No ☒

(2) Second petition, etc. Yes ☐ No ☐

(d) If you did *not* appeal from the adverse action on any petition, application or motion, explain briefly why you did not:

I was not aware of my rights.

State *concisely* every ground on which you claim that you are being held unlawfully. Summarize *briefly* the facts supporting each ground. If necessary, you may attach pages stating additional grounds and facts supporting same.

CAUTION: In order to proceed in the federal court, you must ordinarily first exhaust your available state court remedies as to each ground on which you request action by the federal court. If you fail to set forth all grounds in this petition, you may be barred from presenting additional grounds at a later date.

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For your information, the following is a list of the most frequently raised grounds for relief in habeas corpus proceedings. Each statement preceded by a letter constitutes a separate ground for possible relief. You may raise any grounds which you may have other than those listed if you have exhausted your state court remedies with respect to them. However, *you should raise in this petition all available grounds* (relating to this conviction) on which you base your allegations that you are being held in custody unlawfully.

Do not check any of these listed grounds. If you select one or more of these grounds for relief, you must allege facts. The petition will be returned to you if you merely check (a) through (j) or any one of these grounds.

- (a) Conviction obtained by plea of guilty which was unlawfully induced or not made voluntarily with understanding of the nature of the charge and the consequences of the plea.
- (b) Conviction obtained by use of coerced confession.
- (c) Conviction obtained by use of evidence gained pursuant to an unconstitutional search and seizure.
- (d) Conviction obtained by use of evidence obtained pursuant to an unlawful arrest.
- (e) Conviction obtained by a violation of the privilege against self-incrimination.
- (f) Conviction obtained by the unconstitutional failure of the prosecution to disclose to the defendant evidence favorable to the defendant.
- (g) Conviction obtained by a violation of the protection against double jeopardy.
- (h) Conviction obtained by action of a grand or petit jury which was unconstitutionally selected and impaneled.
- (i) Denial of effective assistance of counsel.
- (j) Denial of right of appeal.

A. Ground one: Denied Counsel

Supporting FACTS (state *briefly* without citing cases or law): The judge never

appointed an attorney. I was given the option
to either plead guilty or go to trial. I did
not know my Rights so I pled guilty to get
rid of the case.

B. Ground two: a Conviction obtained by a guilty plea which
was not made with an understanding of charges and consequences

Supporting FACTS (state *briefly* without citing cases or law): Same as supporting

facts for ground one. I was not given an
attorney to explain my rights and the
consequences. I did not waive my right to
an attorney. I was not given the opportunity
to consult with one.

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C. Ground three: b. Conviction obtained by use of coerced confession

Supporting FACTS (state *briefly* without citing cases or law): I was not given an opportunity to consult with an attorney and the judge knew I wanted to get out and go back to work. I was told if I pled guilty and paid the \$75 fine I could return to work.

D. Ground four _____

Supporting FACTS (state *briefly* without citing cases or law): _____

13. If any of the grounds listed in 12A, B, C, and D were not previously presented in any other court, state or federal, state *briefly* what grounds were not so presented, and give your reasons for not presenting them: _____

I could not bring my claims to court because I could not get passed the statute of limitations. Now with Heck vs. Humphrey 512 US 477, 1994

14. Do you have any petition or appeal now pending in any court, either state or federal, as to the judgment under attack?
Yes ☐ No ☒

15. Give the name and address, if known, of each attorney who represented you in the following stages of the judgment attacked herein:

(a) At preliminary hearing NONE

(b) At arraignment and plea NONE

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(c) At trial _____

(d) At sentencing _____

(e) On appeal _____

(f) In any post-conviction proceeding _____

(g) On appeal from any adverse ruling in a post-conviction proceeding _____

16. Were you sentenced on more than one count of an indictment, or on more than one indictment, in the same court and at the same time?

Yes ☐ No ☒

17. Do you have any future sentence to serve after you complete the sentence imposed by the judgment under attack?

Yes ☐ No ☒

(a) If so, give name and location of court which imposed sentence to be served in the future: _____

(b) Give date and length of the above sentence: _____

(c) Have you filed, or do you contemplate filing, any petition attacking the judgment which imposed the sentence to be served in the future?

Yes ☐ No ☐

Wherefore, petitioner prays that the Court grant petitioner relief to which he may be entitled in this proceeding.

Signature of Attorney (if any)

I declare under penalty of perjury that the foregoing is true and correct. Executed on

03/04/2004
(date)

Gregory C. Milton
Signature of Petitioner

COMMONWEALTH OF MASSACHUSETTS

Check Copy

SUFFOLK, ss

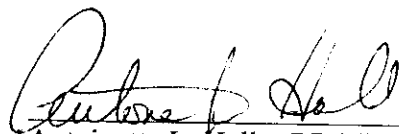
W. ROXBURY DISTRICT COURT
DOCKET NO: 0306MH0150

IN RE GREGORY MILTON

MOTION TO ADVANCE AND CONTINUE
HEARING FROM JUNE 25, 2003 TO JULY 23, 2003

Now comes the respondent and hereby moves this Honorable Court to allow his request to advance and continue the hearing date presently scheduled for 9:30 am, June 25, 2003 at the Bay Cove Mental Health Center to July 23, 2003. Respondent requests this continuance to allow for proper legal evaluation of the respondent's claims for civil rights violations and to facilitate negotiations between the parties. This continuance is not agreed upon by the Hospital. Please see the accompanying affidavit in support of this motion.

Gregory Milton
By His Attorney,



Antoinette L. Hall – BBO#567191
A.L. HALL & ASSOCIATES
P.O. Box 1254
Jamaica Plain, MA 02130
(617) 513-8886

Dated: June 25, 2003

COMMONWEALTH OF MASSACHUSETTS

SUFFOLK, ss

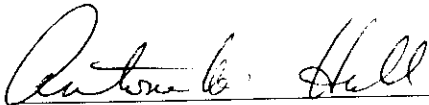
W. ROXBURY DISTRICT COURT
DOCKET NO: 0306MH0150

IN RE GREGORY MILTON

AFFIDAVIT IN SUPPORT OF
MOTION TO ADVANCE AND CONTINUE
HEARING FROM JUNE 25, 2003 TO JULY 23, 2003

1. My name is Antoinette Hall and my office address is 1295 River Street, Hyde Park, Massachusetts, 02136.
2. I am an attorney licensed to practice law within the Commonwealth of Massachusetts. My B.B.O.# is 567191.
3. I am attorney of record for the above-entitled case.
4. Gregory Milton disagrees with the medical assessment and treatment advise provided by the doctors at Somerville Hospital.
5. Gregory Milton requests to be allowed extra time to allow for him to obtain further documentation concerning his civil rights claims, namely police reports from the Roxbury District Court.
6. Gregory Milton believes that these reports are important to his defense at the present hearing.
7. He is currently not medicated, however has had no incidences of violence against others on the ward during his stay.
8. This is the second continuance request on this matter.
9. A representative for the hospital, Suzanne Atryzek objects to the requested continuance on this case.

Signed under the Pains and Penalties of Perjury this 25th day of June, 2003.


Antoinette L. Hall, Esq.

COMMONWEALTH OF MASSACHUSETTS

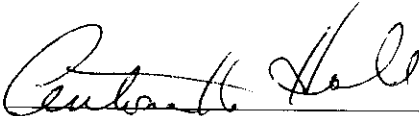
SUFFOLK, ss

W. ROXBURY DISTRICT COURT
DOCKET NO: 0306MH0150

IN RE GREGORY MILTON

CERTIFICATE OF SERVICE

I certify that an exact copy of the attached motion has been delivered in hand to the representative of the Hospital, Suzanne Atryzek this 25th day of June, 2003.



Antoinette Hall